

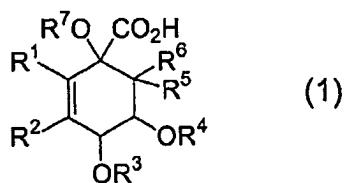
### **REMARKS**

This Amendment and Response is in reply to the Office Action of November 17, 2008. The time period for reply extends up to and including February 17, 2009.

Claims 19 – 31 are pending. Claims 19 and 21 have been amended. No new matter has been added.

#### **Rejection under § 112, second paragraph**

Claims 19-31 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Office Action alleges the term “an aromatic compound” in claim 19 is indefinite as it is unclear how a substituent can maintain its identity as a separate compound and be a substituent as well. In order to clarify the claims, the values of both R<sup>1</sup> and R<sup>2</sup> of claim 19 have been amended from “aromatic compound” to “aromatic group.” The groups R<sup>1</sup>, R<sup>2</sup>, R<sup>3</sup>, R<sup>4</sup>, R<sup>5</sup>, R<sup>6</sup> and R<sup>7</sup> are designated as a variety of radical substituent groups (for example, *see* page 1, line 7 and ending at page 1, line 13) of the class of compounds with the general formula (1):



It would be obvious to one of skill in the art that the radical substituents are not a compound, but rather are a substituent group.

In view of the foregoing, withdrawal of the rejection is requested. Since the amendment was not made to overcome an art based rejection, Applicants note the amendment should not be construed in a limiting manner.

## **Rejections under § 102**

Claims 19 and 21 stand rejected under 35 U.S.C. 102(b) as anticipated by Montchamps et al. Applicants traverse this rejection.

The Office Action asserts that claims 19 and 21 are anticipated by Montchamps because Montchamps discloses structures whereby  $R^2$  is a (i)  $C_1$ -alkyl substituted with a phosphate group ( $OPO_3H_2$ ) and (ii) a  $C_1$ -alkyl substituted with a phosphate group ( $OP(O)(O-tBu)_2$ ). Claim 19 does not recite a compound whereby the  $C_1$ -alkyl at  $R^2$  is substituted with a phosphate group ( $OPO_3H_2$ ) or ( $OP(O)(O-tBu)_2$ ). Without acquiescing to the rejection and solely for the purpose of advancing prosecution, claim 21 has been amended to delete the term "phosphate and alkoxy radical comprising 1 to 4 carbon atoms." Therefore, claims 19 and 21 do not recite structures whereby  $R^2$  is a  $C_1$ -alkyl substituted with a phosphate group ( $OPO_3H_2$ ) or a  $C_1$ -alkyl substituted with a phosphate group ( $OP(O)(O-tBu)_2$ ). Applicants submit that claims 19 and 21 are in condition for allowance.

In light of the foregoing, Applicants request reconsideration and withdrawal of the rejections under § 102(b). Applicants do not otherwise concede the correctness of the rejections and reserve the right to make additional arguments as may be necessary.

## **Claims 18-20 and 22-31**

It is believed that claims 18-20 and 22-31 are allowable over the art of record and that the only rejection of these claims was under § 112, second paragraph. The section § 112 rejection has been overcome for the reasons discussed above.

## **Conclusion**

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

U.S. Patent Application Serial No. 10/565,348

Amendment dated February 17, 2009

Reply to Office Action of November 17, 2008

Please charge any additional fees or credit any overpayment to Merchant & Gould P.C.,  
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Respectfully submitted,

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Date: 17 February 2009



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